THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.3092 of 2004

Dated: 21-09-2006

Between:

Naveen Reddy

.... PETITIONER

AND

Director of Mines & Geology,
B.R.K.R. Bhavan, Near Tank Bund,
Hyderabad and others.
.

.... RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.3092 of 2004

ORDER:

Having regard to the controversy which is in a narrow compass, the matter itself is heard finally.

Land admeasuring 1.611 hectares in Survey Numbers 975/1,2 and 3 situated at Chimakurthy Village, was leased out to M/s. Viva Granites for mining granite. The lease is valid upto 2011. As per the terms and conditions of the lease, the petitioner is required to adhere to the Rules known as the Granite Conservation and Development Rules, 1999 ('the Granite Rules', for brevity) and the terms and conditions of the lease. It is the case of the petitioner that after obtaining mining lease in respect of land in Survey Numbers 975/1,2 and 3, the petitioner purchased an extent of Acs. 2.50 cents in Survey Number 584/1 situated near the mining land for dumping the mineral waste. It is asserted that the petitioner is strictly adhering to the distance of 50 Meters while dumping the waste in Survey Number 584/1. The 1st respondent herein issued a notice dated 16.2.2004 directing the petitioner to remove the waste from buffer zone adjacent to the road and store the same as per Rule 31 of the Granite Rules. Aggrieved by the same, the petitioner filed the instant writ petition seeking invalidation of the said order/notice.

This Court admitted the matter on 20.2.2004. Subsequently, on 23.3.2004, this Court passed interim orders to the effect that there shall be stay of determination of lease pursuant to the impugned order dated 16.2.2004 while observing that the interim order shall not preclude the concerned Executive Magistrate to take action under Section 133 of the Criminal Procedure Code, 1973 against the petitioner for storing/dumping granite waste causing inconvenience to vehicular traffic. The respondents now filed W.V.M.P. No.1522 of 2004 along with the counter affidavit praying to vacate the interim order.

In their counter, Respondents 1 and 2 stated as under:

> In reply to the allegations mentioned in para 4 of the petitioner's affidavit, it is a fact that the Technical Staff members of 2nd respondent are conducting check measurements regularly. More over the petitioner is also obtaining transport permits duly paying the seigniorage fee to the Government. The Mandal Revenue Officer, Chimakurthy vide Rc. B. 195/2004, dated 11.3.2004 has informed that the Sy.No.584 of Chimakurthy Village and Mandal, Prakasam District is classified as "Assessed Waste" as per village records. The Sy. No.584/1 measuring an extent of 2.50 acres dumped with waste material by M/s. Viva Granites and M/s. Swathi Granites. The petitioner has also dumped waste material partly in Sy. No.584/3. The Surveyor of Assistant Director of Mines and Geology, has surveyed the area on 9.3.2004 and noticed that a huge dumps with a height of about 12 mts., at a distance of about 18 mts., from the toe of R&B Road. There is one pucca building and one shed is located within 50 mts., buffer zone area. But, the petitioner has stated that they have purchased the land situated in Sy. No. 584/1 of Chimakurthy Village and Mandal over an extent of 2.50 Acres in order to dump the waste material is not correct.

Learned counsel for the petitioner strenuously contended that the petitioner purchased land in Survey Number 584/1 and earmarked the same as dumping yard for the mining area of the petitioner situated at a distance of more than 50 meters on either side of State Highway number 53. Therefore, he submits that the allegation that mineral waste is being dumped in the buffer zone is not correct. Secondly, he submits that though show cause notice was issued on 21.2.2002, no action was initiated, and, ultimately the impugned order was passed two years thereafter on 16.2.2004, which would belie the allegations made in the impugned order. The learned Government Pleader refutes these contentions.

A counter affidavit is filed on 28.6.2004 along with vacate stay application duly serving a copy thereof on the counsel for the writ petitioner. In spite of the same, no reply affidavit is filed denying the counter averments extracted hereinabove. Therefore, in the absence of any denial of the counter averments, this Court has to infer that the counter averments stand admitted. Even if the petitioner has purchased land admeasuring Ac. 2.50 cents in Survey Number 584/1 of Chimakurthy Mandal and earmarked the same as

dumping yard, the petitioner is required to maintain the distance of 50 meters from the road etc. Secondly, as per Rule 31 of the Granite Rules, the mineral waste can be dumped only in the place earmarked for such dumping. The Mandal Revenue Officer by letter dated 11.3.2004 informed that the petitioner has dumped mineral waste partly in Survey Number 584/3, which is classified as assessed waste. This would certainly falsify the case of the petitioner that the petitioner is dumping waste only in Survey Number 584/1.

In that view of the matter, this Court cannot find fault with the impugned order. The writ petition is accordingly dismissed. No costs.

(V.V.S. RAO,J)

21st September, 2006

pnb